

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**COMPANY PETITION No. 106 of 2002****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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B.I.F.R. - Petitioner(s)
Versus
GOBAL ARYA INDUSTRIES LTD. & 6 - Respondent(s)

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Appearance :

BOARD OPINION for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1,4 - 5.
MR ARVIND R YADAV for Respondent(s) : 2,
MR RD DAVE for Respondent(s) : 3,
MR HEMANG RAVAL for Respondent(s) : 6,
MS POONAM MATHUR for Respondent(s) : 7,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG**Date : 27/04/2006****ORAL JUDGMENT**

1. Present matter was registered on the report of the BIFR. The BIFR, in its report, dated 26.4.2002 has observed that nobody was representing the Company

before it and as nobody was representing the interest of the company, the Board came to a conclusion that the promoters were not serious in rehabilitating the company nor were they resourceful enough to mobilise the funds required for this purpose. Notices were issued to the company and other secured creditors. Unfortunately, none appeared for the respondent company. On 21.1.2006, this Court directed that hearing be advertised. Ms. Poonam Mathur, learned counsel for the ICICI Bank submits that in accordance with the directions, hearing has already been advertised in Sandesh (Gujarati) and Indian Express (English), both Ahmedabad editions. After the advertisement of the hearing, none appears to oppose the application. Mr. Arvind Yadav, learned counsel appears for the respondent no.2 Union Bank of India.

2. Taking into consideration the totality of the circumstances and that the promoters/directors of the company were never serious before the Board and despite the notices, have not cared to appear in the matter, I allow this petition. The respondent company is accordingly wound up. The Official Liquidator, associated with this Court, is appointed the Official Liquidator. The Official Liquidator submits that in

accordance with the order dated 15.7.2003, he has taken possession of the property of the company and has submitted his compliance report. The petition stands disposed of. Ms. Mathur and Mr. Yadav, learned counsel submit that O.L.R. No. 95 of 2005 has already been disposed of by order dated 19.4.2006. The Official Liquidator shall now take further appropriate action for getting the property valued and shall propose its auction.

3. Ms. Mathur, learned counsel for the ICICI Bank submits that the ICICI Bank was appointed as operating agency though, in fact, they are not secured creditors, she submits that the ICICI Bank be not joined as party respondent in any of the proceedings. It is observed that if the ICICI Bank is joined as party respondent in any third party's applications, then, the Official Liquidator shall inform this fact to the Court so that the name of ICICI Bank is ordered to be deleted.

[R.S. GARG, J.]

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